

The Brockton Conservation held a meeting in the GAR Room, City Hall, Brockton on Thursday, October 14, 2010 at 7:00 PM. Members present: Chairperson Stephanie Danielson, Scott Ford, James Bosco, Anthony DiLallo and Timothy Reilly. Also present were secretary Pamela Gurley and Marta and Henry Nover, Nover-Armstrong Associates (NAA).

1. Notice of Intent

1a. Certificate of Compliance (118-1226)

Address: Plot 94-1 Summer Street

Applicant: Bay State Gas Co.

Representative: AECOM Technology

Certificate of Compliance

John Blier said the request for the COC is on the same property as the newly filed NOI. He said that the 2004 work was for removal of contaminated materials (80T were removed and disposed off site) and the site was restored. Carl Tammy said they submitted info regarding the project to the Commission for the COC. Ms. Danielson noted it was very thorough. The Commission was satisfied with the information submitted.

A motion was properly made (Reilly), seconded (Ford) and unanimously passed to issue a certificate of compliance.

Notice of Intent

Mr. Blier said he believes that they have submitted all the requested info; (historic data was given to NAA on a CD that evening), an invasive species plan; the (URAM) utility release abatement measure document has not been written he said that the MCP allows work to be done and a URAM plan submitted latter. He apologized for not getting the information to the Commission in a timelier manner (office did not receive the info until Monday). Ms. Nover suggested that this (URAM) could be added as a condition in an OOC. She said she would like to see the MCP to take a look for information on the material disposal.

Mr. Blier said their goal is to eliminate the problem and not leave anything behind (there is an odor issue); he said the goal is to over excavate to get rid of as much as they can; they will be dewatering and the plan was included. He said that the City Engineer has requested they use plastic pipe instead of concrete. He said they will be taking out 2-4' of material and that the problem is confined. He said by adding an organo clay layer surface water will no longer be in contact with ground water. Ms. Danielson asked about organo clay and was told it is a pellet type material. She asked about the existing vegetation and Mr. Tammy said mostly Japanese knotweed and they will be loaming and seeding. Mr. Blier said there is a lot of redundancy in the proposed system.

Mr. Nover said there have been a lot of upgrades to the proposal since the original submittal. He pointed out that the sanitary sewer line shows on revised plan but was not on the original plan and asked if it still take flow. Mr. Blier said he believes it does and said he thinks it goes under the river. He was asked to look into that.

Ms. Nover said she wants to look at the sediment sampling data on the disc to see if there is anything that needs to be added to as a special condition. She said she also

needs to look at the release abatement plan. Ms. Danielson said she may want to add a condition in the OOC for some sampling. Mr. Blier asked if there was something specific she (Ms. Nover) was looking for and she said info on ecological and wetlands impacts.

Mr. Ford asked what happens when the oil hits the organo clay and if it has a capacity. Mr. Blier said not for this project as they overcompensated; he said when oil hits organo clay it binds to it; and in this case it is meant to be permanent; it is a land fill liner.

Continued to October 28, 2010 by agreement of the parties.

2. Certificate of Compliance

Address: Dupont Substation (National Grid) 118-612

Applicant: Mass Electric d/b/a National Grid

Representative: Christina Hoffman, Environmental Resources Management

Ms. Nover said they conducted a site inspection yesterday and the site is as appears in their request for a COC.

Ms. Hoffman said that there were three locations that were filled adjacent to wetlands. She said National Grid notified the Commission and filed an after the fact NOI. She said they completed restoration of location two and location three and removed the gravel access road and restored the area. She said it was inspected in fall and this spring and again in summer.

Ms. Nover suggested that they remove the erosion controls (Commission agreed to hold the COC until they receive verification that they have been removed). Ms. Danielson said that does not want the hay bales smashed and left on site to disintegrate; she would like them removed and disposed of properly.

A motion was properly made (DiLallo), seconded (Reilly) and unanimously passed to issue a COC pending verification that the siltation is removed and has been disposed of off site.

3. Notice of Intent

Address: Plot 13 Lot 2B Liberty Street

Applicant: RJ Messina Inc.

Representative: Frank Gallagher, Gallagher Engineering

Mr. Gallagher said that project is for lot 2b Liberty St. and said the location of the proposed building will be behind Inkstone Building. He said they are proposing a 50X60 building with six parking spots. He said the grey area on the plan is proposed new pavement (but exists as gravel parking now); they are adding an additional drainage system to handle new pavement that will empty into the existing detention basin; they are making a modification to the basin. He said that the current proposal is quite different (downsized) from original proposal for the site. He said they would also like to build a wall around wetlands and add filling to level ground out.

Ms. Nover said they need to formally withdraw the old NOI. She said that this plan does not show the stockpiled materials and said they need to address the previous flood plain filling. Mr. Gallagher said the (red line on plan is flood plain line) portion of flood plain was filled in during construction of a wall; he said what was filled in needs to be

recreated he said it was not compensated for at that time and that they are proposing to recreate 2x what was filled.

Ms. Nover said there is excavation being proposed in the flood plain and Mr. Nover said he needs to look at the plan submitted and needs to look into the DEP comment regarding historic filling. Mr. Gallagher said that the map shows a wetland change but that he does not know how that was arrived at. Ms. Danielson said it is rare that map shows an area as wet that is not wet. Mr. Nover suggested that ORAD be used as basis. Mr. Gallagher said that the proposed retaining walls are the limit of work on the site and said he believes that wetlands are properly delineated. Mr. Nover suggested that they use the original ORAD plan as a comparison.

Ms. Danielson asked if the DEP reviewer was aware of the existing ORAD and Mr. Gallagher said probably not as he did not include it in the NOI. Mr. Nover said he looked at the stormwater calcs several times (as part of the other proposals) and they appear to provide control but he asked them to add another storm scepter unit. Mr. Gallagher suggested adding a storm scepter by the basin which would filter both the new site and the original site. Ms. Nover said right now there is no garage to do work and it is done outside; once the garage is completed all the maintenance will be done in the garage.

Ms. Danielson said she would like no work in the 25' area and would like the area restored. She said the area on the plan might still be a vernal pool and is afraid that the retaining wall may be a problem for wildlife recourse area. Mr. Gallagher said they are leaving the north edge undisturbed. Ms. Nover said they need to define the limit of work clearly; Mr. Gallagher said he would be able to define it clearer. Mr. Ford asked if there is a groundwater issue if they dig the basin deeper. Mr. Nover said there would be. Mr. Bosco asked why the issue of the compensation was not previously addressed. He was told there was no approval issued by the Commission and that the project was put on hold. Mr. Bosco said the plan needs to show a snow storage area. Mr. Reilly asked of there were any contaminates stored outside on the site and was told no. Mr. Reilly asked about the elevation of water at the retaining wall. Mr. Gallagher said he does not show the elevation there but that it stays contained within the wetland flags. Mr. Reilly said he would like to see a cross-section of the wall.

Ms. Danielson suggested that new members see the site. It was agreed that those that area available meet Mr. Messina on the site Saturday at 8 AM. For those who are unable to be there then if they contract Mr. Messina he will make arrangements for them to see the site.

Continued to October 28, 2010 by agreement of the parties.

4. Notice of Intent

Address: 20 Bridge Street

Applicant: Antonio Alves

Representative: Bruce Malcolm Land Surveys Inc.

Richard Wainwright

NAA report October 12, 2010 was entered into the record.

Mr. Malcolm said they received a special permit from ZBA and are proposing a two story addition. He said that the first floor is a garage cannot be left open to accept flood water;

he said TOF is just above the flood elevation and that the entire lot is below the flood elevation and there is no room to compensate. He said there was an elevation certificate issued for #20 and it was used for a benchmark.

Ms. Danielson asked if they have they considered excavating the area under the garage. She asked why the clearing that was done on the site not being addressed; Attorney Wainwright said that nothing was touched in the BVW. Ms. Nover said it looks like they started clearing for addition without filing. Ms. Danielson said that all the work that has been done is within the jurisdiction of the Commission. She said the owner bought the property in March and the wetlands were determined in June. Ms. Danielson asked what was plan done for and noticed that Mr. Malcolm used the plan for the topo and wetlands line on the plan submitted. Neither Mr. Malcolm nor Atty. Wainwright had any idea who had the plan done or what its use was. Attorney Wainwright said they want to tie into the order issued for across the street (118-597) he said that the roadway needs to be extended for them to add a driveway into the garage and that they are using that work as compensation. Ms. Danielson said that they cannot take credit for that work; she said that the construction of the road was part of another project and the filled floodplain is being compensated for by that applicant. Attorney Wainwright asked if they could just ignore what was approved for the McDuffy project. Mr. Malcolm explained to Attorney Wainwright that if the road is not put in as part of the McDuffy project and they need to put in the roadway they will need to compensate for it in their plan. He said they have no way of compensating on their property.

Continued to November 18, 2010 by agreement of the parties.

5. Partial Certificate of Compliance

Address: Plots 89 & 90 Plain St.; Plots 10 & 11-1 Oak Hill Way

Applicant: South Brockton LLC

Representative: Mark Manganello, LEC Environmental

Mr. Manganello said they are requesting a partial certificate of compliance for restoration work completed; he said areas A, B, C & E were completed per the OOC.

Ms. Nover said that B C & E were completed in accordance with order and area A is growing good but is smaller than it should be; she said there are ATV tracks in that area (A). She suggested that they add boulders around the area and that they leave A as is as it is growing so well. She recommended that a COC could be issued for B C & E with all other conditions remaining in force.

Mr. Reilly said the properly owner has been reluctant to the secure the site and said that the Commission has asked he do so several times. Ms. Danielson said that Mr. Manganello has a similar situation in Easton and that LEC came up with a solution (orange construction fencing). Mr. Manganello said he would be willing to look at any suggestions. Mr. Reilly asked if the owner had looked into private security and was told he has not.

A motion was properly made (Ford) and seconded (DiLallo) to issue a partial COC for areas A, B, C & E and the condition that all other conditions remain in force.
In favor: Danielson, Ford and DiLallo; opposed Reilly and Bosco. Motion carried.

6. Request for Extension

6a. Request for Amendment to OOC

Address: Plots 89 & 90 Plain Street; Plots 10 & 11-1 Oak Hill Way

Applicant: South Brockton LLC

Representative: Mark Manganello, LEC Environmental
Ed Jacobs, JK Holmgren Engineering Inc.

Mr. Manganello said that they received an extension to the order until 10-18-10 and as part of the extension were required to file the request for an amendment to the order and a grading plan. Ms. Danielson said that he was also to provide proof that the culvert and plantings were ordered. She said that if the culvert had been ordered at the time they were told it was ordered it would have been on site by now. Mr. Manganello said the plan is to install it as soon as it is delivered and said if frost is not an issue then there is no limitation on the installation time. Ms. Danielson said that the Commission was to receive proof that the culvert was ordered and what has been presented is just a quote form. She said there is no proof that it was ordered and no delivery date. She said that NAA had been previously told that they had ordered the culvert from Situate Concrete. She asked if the erosion controls have been staked in field to the narrower width and were told they had.

Ms. Nover said that the work required to the pink and purple areas on the plan could have continued under this order.

Ms. Danielson said at this time she is inclined not to extend the order. Mr. Manganello asked if they would consider extending it to the end of the month to see if they get the work done. Mr. Reilly said they have had three years to do the work; the Commission was told it was to be done a year ago; then told it was scheduled to be done in June; it is now October. Mr. Manganello said that the loam for the UPS area (separate OOC) is being delivered; he said they know that they it has to be done by the end of the growing season.

Mr. Reilly said it seems their choices are to extend the order or allow the work under an enforcement order. Mr. Manganello said by the time they issue an enforcement order and get back to the Commission the season will be over. Mr. Ford said he would not be opposed to giving them an extension to November 1st to see if they can get the restoration work done. If it was not done by then he would not vote to issue another extension.

A motion was properly made (DiLallo) and seconded (Ford) to issue an extension to November 1, 2010 to complete the restoration work. Mr. Manganello asked if they completed the restoration if they would be allowed to apply for another extension to get the culvert in and was told if the work were completed they could apply for another extension.

In favor: Ford and DiLallo; Opposed: Danielson, Bosco and Reilly
Motion filed to carry. Extension was not issued.

A motion was properly made (Reilly), seconded (Bosco) and unanimously passed to issue an enforcement order requiring that all remaining issues under OOC 118-568 including installation of the culvert per the Army Corp. of Engineers be completed.

A motion was properly made (Reilly), seconded (Ford) and unanimously passed to amend the previous motion to have all work under the enforcement order completed by 12-1-10.

Other Business

Petronelli Field Discussion

West Little League sent a letter to the Park Dept. requesting permission to install electricity in the ball field; Mr. Dorgan forwarded the letter to the Commission Office. The Commission was not favor of allowing any addition work to the ball field stating that this ball field sits in Conservation Land as is. The Commission asked that WLL be notified that the Commission is not granting their request at this time they do not want to set a precedent and feel that there should be no further intrusion into the Conservation area.

Minutes from the following meetings were approved by unanimous vote:

May 13, 2010

May 27, 2010

June 10, 2010

June 24, 2010

July 15, 2010

August 19, 2010

September 9, 2010

September 23, 2010